IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 6842 of 2007(M)

RCP.1/2004 of RENT CONTROL COURT, PERUMBAVOOR
.....

PETITIONER:

M.P.MATHEW, MUKKANCHERRY HOUSE,
VALAYANCHERRY HOUSE, VALAYANCHIRANGARA,
VENGOLA.

BY ADV. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP

RESPONDENTS:

NOBY MATHEW, S/O.MATHEW,
PARVELLKKUDY HOUSE, PERUMBAVOOR KARA,
PERUMBAVOOR VILLAGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC,JJ.

W.P.(C).No.6842 OF 2007

Dated this the 1st day of March, 2007

JUDGMENT

Raman, J.

Petitioner challengs Ext.P6 order passed by the Rent Control Court, Perumbavoor in I.A.No.038/2006 in R.C.O.P.No.1/2004 by which the delay of 123 days in filing the petition for setting aside the abatement and to implead the petitioner therein was allowed on payment of cost of Rs.500/- to the respondent. The said respondent is the petitioner herein. According to him, the court below having found that the reasons stated in the accompanying affidavit in support of the petition for condonation of delay are not sufficient had no jurisdiction to allow the petition on terms. As a matter of fact, the delay petition itself was filed pursuant to the order of a Division Bench of this Court in W.P.(C).No.453/2006 dated 28/3/2006 filed by the tenant. The contention therein was that without condoning the delay, the impleadment ought not to have been allowed. We noticed that the petition for setting aside the abatement was filed without a petition for condonation of delay. On that ground the order was set aside and an opportunity was given to the respondent therein to file a separate application for condonation of delay. Pursuant thereto an

application for condonation of delay was filed. It was after considering the matter that the present order was passed. We do not find any error or illegality in the order passed by the court below. Discretion has been properly exercised and this is not a fit case for granting any relief invoking the jurisdiction of this Court under Article 227 of the Constitution of India. By allowing the writ petition it will result in denial of an opportunity to contest the matter on merits. We find no merit in this writ petition.

Writ Petition is dismissed.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.